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ENITED STATES PATENT AND TRACE

COMMISSIONER FOR PATENTS
JNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231

Www.uspto.gov

FP00-034US

Jiawei Huang J.C. Patents

4 Venture, Suite Strvine, CA 92618

In re Application of

NAKANO et al.

U.S. Application No. 09/856,402

PCT No.: PCT/JP00/07229

Int. Filing Date: 18 October 2000

Priority Date: 18 October 1999 Attorney Docket No.: EHAR0010

For: POLISHING MACHINE FOR

PERIPHERAL EDGE OF SEMICONDUCTOR

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)" filed 12 October 2001 to accept the application without the signatures of joint inventor, Hitoshi Tambo. The required petition fee of \$130.00 (37 CFR 1.17(i)) has been submitted.

#### **BACKGROUND**

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicant filed the present petition under 37 CFR 1.47(a) and a two-month extension of time.

#### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a *bona* fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Hitoshi Tambo. The mailing of the Declaration. Assignment, and Power of Attorney is not considered a complete copy of the application paper (specification, including claims drawings, and oath and declaration). Additionally, Mineo Ishii states, "[t]he letter was delivered to Mr. Tambo on August 26, 2001" and has provided copies of the registered letter (Evidence 1) and delivery certificate (Evidence 2) to Mr. Tambo, however, these documents are in Japanese and have not been translated. Nor has Tambo's response (i.e. Evidence 3) been translated. Applicant's must provide complete translations of Evidence 1, 2 and 3. Lastly, the declaration of Mineo Ishii states that, "Mr. Yushuhiro Kosawa succeeded in contacting with Mr. Tambo by telephone on September 5, 2001, and requested

his signature. In response, Mr. Tambo told Mr. Kozawa that he would not sign the documents." As stated above, "[w]here a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made." The statements regarding the refusal constitutes secondhand knowledge in that the refusal was made to Yashuhiro Kozawa, not Mineo Ishii.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Hitoshi Tambo under 37 CFR 1.47(a) at this time.

Additionally, the declaration is executed by Yasuhiro Kozawa, whereas the international application lists the inventor as Yasuhiro Kosawa. Clarification is required. (See MPEP 201.03, Page 200-5).

#### **CONCLUSION**

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.

Boris Milef

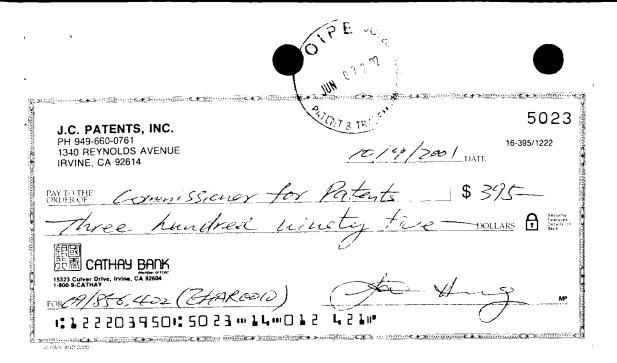
PCT Legal Examiner

PCT Legal Office

Anthony Smith Attorney-Advisor

PCT Legal Office Tel: 703-308-6314

Facsimile: 703-308-6459



UTILITY PATENT

DATE: October 09, 2001

Response to Notice to File Missing Parts

DATE OF OA: June 21, 2001

Received in the U.S. Fatent and Trademark Office on the date stamped hereon:

Attv. Docket #: EHAR0010

**AROO1O** Appl. N

Appl No. 09/856,402

Filed on: 2001/5/21

Examiner:

Art Unit

Applicant(s):

reruyuki nakano et a:

Tide: FOLISHING MACHINE FOR PERIPHERAL ELGE OF SEMICONDUCTOR

[  $\mathbf{X}$  ] Transmittal Sheet in Duplicate

[X] Response to Notification of Missing Parts

[X] Petition under 37 CFR 1.47.

[X] Copy of Notification.

[  $\mathbf{X}$  ] A copy of Executed Declaration and Power of Attorney signed by the inventors.

[X] Check \$395 for petition fee.

[X] Request for Changing Correspondence Address.

[X] Return Postcard

PLEASE DATE, STAMP AND RETURN

**PATENT** 



Docket No.: EHAR0010

#### IN THE UNITED STATES PAPENT AND TRADEMARK OFFICE

Applicant:	TERUYUKI NAKANO et al.	)	I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal
Application No.:	09/856,402	)	Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on
Filed:	May 21, 2001	) ) )	October 09, 2001 (Date)
For:	POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	) )	A-9
Examiner:		) )	Jiawei Huang, Reg. No. 43,330

#### TRANSMITTAL LETTER AND COMMUNICATION

#### **BOX MISSING PARTS**

ASSISTANT COMMISSIONER FOR PATENTS WASHINGTON, D.C. 20231

#### Dear Sir:

In response to the Notification of Missing Requirements under 37 U.S.C. 371, which was mailed by the Patent and Trademark Office on June 21, 2001, enclosed are:

- (X) Petition under 37 CFR 1.47 (a).
- (X) A Declaration and Power of Attorney executed by inventor(s).
- (X) An extension of time to respond for <u>2</u> month(s) is hereby requested.

#### Time Extension Fee:

- () one month (\$ 55 small entity)
- (X) two months (\$ 200 small entity)
- () three months (\$ 460 small entity)
- (X) A copy of Notification of Missing Requirement under 35 USC 371.
- (X) Request for Changing Correspondence Address.

#### OTHER ITEMS

- (X) Return prepaid postcard.
- (X) Fees as calculated below:

#### **CLAIMS AS FILED**

Petition Fee under 37 CFR 1.47 (a)	\$ 130
Surcharge Fee under 37 CFR 1.492 (e)	\$ 65
Fee for [2] Months Time extension	\$ 200
For a small entity: TOTAL FILING FEE	\$ 395

- (X) A check in the amount of \$ 395 cover the above fees is enclosed.
- (X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-0710 (Order No. EHAR0010). A duplicate copy of this sheet is enclosed.

Respectfully submitted, J.C. PATENTS,

Dated: 10 / 0 / 2001

By: Huang

Registration No. 43,330

Please send Correspondence to: 4 Venture, Suite 250 Irvine, California 92618 (949) 660-0761

In re application of: Application No.: Filed:	09/856,402 May 21,2001	)
For:	POLISHING MACHINE FOR EDGE OF SEMICONDUCTOR	PERIPHERAL)
Examiner: Art Unit:		)

#### PETITION UNDER 37 CFR 1.47 (a)

ASSISTANT COMMISSIONER FOR PATENTS WASHINGTON, D.C. 20231

Sir:

As evidenced by the attached copy of the letters dated August 22, 2001 ("evidence 1") and September 9, 2001 ("evidence 3") and the attached statement of Mr. Mineo Ishii, diligent effort has been made to reach the inventor, Hitoshi Tambo, of the above-identified application. But Mr. Tambo refused to the application papers.

According to the employment agreement, all intellectual property rights of Tambo's inventions made during his employment at Kabushiki Kaisha Ishii Hyoki have been assigned, or under obligation to be assigned, to Kabushiki Kaisha Ishii Hyoki. Accordingly, the other inventors, Teruyki Nakano; and Yasuhiro Kozawa, of the above-identified application, made the application for patent on behalf of Hitoshi Tambo under 37 C.F.R. 1.47(a) so as to preserve the assignee's rights.

The last known address of Hitoshi Tambo is:

4-7-9, Eda-Nisi, Aoba-Ku, Yokohama-shi, Kanagawa-ken, Japan

The required fee \$130 under 37 C.F.R. 1.17(h) is enclosed.

Respectfully submitted,

Jiawei Huang

J.C. PATENTS

Registration No. 43,330

4 Venture, Suite 250 Irvine, CA 92618 (949) 660-0761

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	TERUYUKINAKANO et al.	)
Application No.:	09/856,402	)
Filed:	May 21,2001	)
For:	POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR	) ) )
Attorney Docket No.	EHAR0010	)
Examiner:		)
Art Unit:		)

#### **DECLARATION OF MINEO ISHII**

#### I, Mineo Ishii, do hereby declare that:

- 1. I am the president of Kabushiki Kaisha Ishii Hyoki, a company located at 5, Asahigaoka, Kannabecho, Fukayasu-gun, Hiroshima 720-2113, Japan.
- 2. I am aware that the above-identified application names as joint inventors: Teruyuki Nakano; Yasuhiro Kozawa; and Hitoshi Tambo.
- 3. I am aware that Mr. Hitoshi Tambo was hired by Kabushiki Kaisha Ishii Hyoki on April 10, 2000 as an engineer and retired on May 20, 2001. I am further aware that, while working at Kabushiki Kaisha Ishii Hyoki, Mr. Tambo contributed to the development of the invention disclosed and claimed in the above-identified application.
- 4. I am aware that Mr. Tambo's last known address at the time he retired from Kabushiki Kaisha Ishii Hyoki was 4-7-9, Eda-Nisi, Aoba-Ku, Yokohama-shi, Kanagawa-ken, Japan.
- I am aware that, according the employment agreement, all intellectual property rights of Mr. Tambo's inventions made during his employment at Kabushiki Kaisha Ishii Hyoki have been assigned, or under obligation to be assigned, to Kabushiki Kaisha Ishii Hyoki.
- 6. Kabushiki Kaisha Ishii Hyoki has attempted to contact Mr. Tambo by mail and telephone to obtain his signature on the documents (the Declaration and Power

of Attorney, and the Assignment). More particularly:

- a) Kabushiki Kaisha Ishii Hyoki sent Mr. Tambo a registered letter dated August 22, 2001 to inform him the filling of the above identified application and to request him to execute the documents. (See the attached copy of the receipt of the registered letter labeled as "evidence 1").
- b) The letter was delivered to Mr. Tambo on August 26, 2001. (See the attached copy of the delivery certificate labeled as "evidence 2").
- c) After receiving the returned delivery certificate, Mr. Yasuhiro Kozawa, on behalf of Kabushiki Kaisha Ishii Hyoki, tried to contact Mr. Tambo by telephone on August 30, and September 5, 2001.
- d) Mr. Yasuhiro Kozawa succeeded in contacting with Mr. Tambo by telephone on September 5, 2001, and requested his signature. In response, Mr. Tambo told Mr. Kozawa that he would not sign the documents.
- e) Mr. Kozawa received a letter dated September 9, 2001 from Mr. Tambo with the documents returned without his signature. (See the attached copy of Mr. Tambolabeled as "evidence 3").

  \*\*Certer\*\*
- 7. Based on my present knowledge, Mr. Tambo has refused to sign the Declaration and Power of Attorney, and the Assignment.
- 8. I declare that all the statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application and any patent issued thereon.

Dated: 1, Oct., 2001

Mineo Ishii

President

Kabushiki Kaisha Ishii Hyoki

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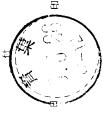


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再生紙使用



# 郵便物配達証明書

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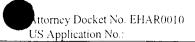
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再生紙使用

### evidence 3

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	丹係
	2001/9/9
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### DECLARATION AND POWER OF ATTORNEY - USA PATENT APPLICATION (37 CFR 1.63)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

POLISHING MACHINE FOR PERIPHERAL EDGE OF SEMICONDUCTOR

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the	speci	fica:	uon	OI.	WI	11C.	n:

(a)	()_	is attached hereto, or		
(b)	$\overline{(X)}$	was described and claimed in PCT International Application No.	PCT/JP00/07229 filed	O
		10/18/00 (MM/DD/YY) and as amended under PCT Article 19 on		
		(if any) and/or under PCT Article 34 on	(if any).	

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 CFR 1.56;

I hereby claim foreign priority benefits under 35 U.S.C. 119 (a)-(d) or 365(b) of any foreign application(s) for patent, design or inventor's certificate, or 365(a) of any PCT international application(s) which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application(s) of which priority is claimed:

#### PRIOR FOREIGN APPLICATION(S):

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (MM/DD/YY)	PRIORITY CLAIMED
ЈР	11-295847	10/18/99	YES
JP(PCT)	PCT/JP00/07229	10/18/00	YES

#### POWER OF ATTORNEY:

I hereby appoint the following attorney(s) and or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Jiawei Huang (Reg. No. 43,330) Charles C.H. Wu (Reg. No. 39, 081) Maria Erlinda C. Sarno (Reg. No. 37,436) Belinda Lee (Reg. No. 46, 8632)

SEND CORRESPONDENCE TO:

DIRECT TELEPHONE CALLS TO: (Name and telephone number) Jiawei Huang (949) 660-0762

J.C. Patents, Inc. 1340 Reynolds Ave., Suite 114 Irvine, California 92614 (949) 660-0761

#### DECLARATION AND POWER OF ATTORNEY -CONTINUED

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor:	TERUYUKI NAKANO	
Inventor's signature:	im zini	Date: 10, JULY, 2001
Citizenship: JAPAN		
Residence and Post Office Address: 2113, JAPAN.	5, ASAHIGAOKA, KANNABECHO,	FUKAYASU-GUN, HIROSHIMA 720
Full name of second inventor:	YASUHIRO KOZAWA	
Inventor's signature:	1/15	Date: 10. JUCY, 200/
Citizenship: JAPAN		/
Residence and Post Office Address:	5, ASAHIGAOKA, KANNABECHO,	FUKAYASU-GUN, HIROSHIMA 720-
2113, JAPAN.		
Full name of third inventor:	HITOSHI TAMBO	
Inventor's signature:		Date:
Citizenship JAPAN		
Residence and Post Office Address:	5, ASAHIGAOKA, KANNABECHO,	FUKAYASU-GUN, HIROSHIMA 720-
2113, JAPAN.		





THIS THE PARTY OF		1. 7 mm 1 3	( N )	*****
U.S. APPLICATION NO	UPLICATION NO FIRST NAMED APPLICANT			ATTY DOCKET NO.
09/856402	NAKANO	ĸ		EHAR0010
			INTERNATIONAL APPLICA	
J C PATNETS 1340 REYNOLDS AVENUE SUITE 114		PCT/JP00/07229		
IRVINE, CA 92614			LA FILING DATE	PRIORITY DATE
			18 OCT 00	18 OCT 99
		1	DATE MAILED	1 JUN 2001
NOTIFICATION OF MIS	SING REQUIREMENTS I	INDER 35 U	.S.C. 371 IN	THE TINITED

		15 50 150
		DATE MAILED 2 1 JUN 2001
NOTIFICATION OF MISSING REQ	THE EMENTS TIME	
STATES DESIGNAT		
The following items have been submitted by the Office as a Designated Office (37 CFR U.S. Basic National Fee Copy of the international application Oath or Declaration of inventors(s) Copy of Article 19 amendments Priority Document The International Preliminary Examinated Translation of Annexes to the International	applicant or the IB to the U 1.494) an Elected Offi Indication of Small E Translation of the int Translation of Article Other: tion Report in English and it	United States Patent and Trademark (cc (37 CFR 1.495); initity Status. emational application into English. et 19 amendments into English. ts Annexes, if any.
- Thinstactor of Addicages to the Anomalia	man , total man j Briand and	top or and English.
2 Applicant has requested early processing under the indicated items in paragraph 3 below. The Basic prior to 20 or 30 months from the priority date to av U.S. Basic National Fee.	National Fee and the copy	of the international application must be filed
3. The following items <b>MUST</b> be furnished within acceptance under 35 U.S.C. 371:	the period set forth below is	n order to complete the requirements for
a Translation of the application into Explanation and Translation of the application into Explanation in the appropriate 20 or 30 or 30. The current translation is defective translation.	months from the priority d	ate.
b Processing fee for providing the tran appropriate 20 or 30 months from    x   c Oath or declaration of the inventors,	the priority date (37 CFR 1	1. <b>492</b> (f)).
the application (preferably by the	International application nu	mber and international filing date). A ate 20 or 30 months from the priority
The current oath or declaration do indicated on the attached PCT/DO	/EO/917.	
grid Surcharge for providing the oath or optionity date (37 CFR 1.492(e)).	declaration later than the ap	propriate 20 or 30 months from the
Additional claim fees of \$ as a fill thin fee, are required. Applicant must submit the aute (37 CFR 1.492(g)). See attached PIO-875.		r, including any required multiple dependent cel the additional claims for which fees are
$5{-\frac{1}{2}}$ Applicant has not submitted the required sequence $PCT/EO/EO/920$ .	ence listing pursuant to 37 (	CFR 1.821-1.825. See attached
ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), MONTHS FROM THE DATE OF THIS NOTICE THE PRIORITY DATE FOR THE APPLICATION RESPOND WILL RESULT IN ABANDONMENT	E OR BY 22 OR 32 MON ON, WHICHEVER IS LA	THS (where 37 CFR 1.495 applies) FROM
The time period set above may be extended by filling	a petition and fee for exten	sion of time under the provisions of 37 CPR
5. If box 3a or 3c is checked, a translation of the Ai	nnexes MUST be submitted	no later than the time period set above or the

Annexes will be caucefied. A processing fee will be required if submitted later than 20 or 30 months from the priority date 7. The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1 495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notic	e	MUS	T be	returned	with this	response.

Enclosed: PCT/DO/EO/917 PTO-875

[ + Notice of Defective Translation

PCT/DO/EO/920

Telephone: 703-305 - 3736

P	A	T	E	N	7
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## CHANGE OF CORRESPONDENCE ADDRESS Application

S /		
Application No.:	09/856,402	
Filing Date:	2001/5/21	
First Named Inventor:	TERUYUKI NAKANO	
Group Art Unit:		
Examiner:		
Attorney Docket No.:	EHAR0010	

Assistant Commissioner for Patents Washington, D.C. 20231

Sir:

Please change the Correspondence Address for the above-identified application

to:

[X] Firm or Individual Name	J.C. PATENTS INC.					
Address	4 Venture, Suite 250					
City	Irvine State CA ZIP 92618					
Country	US					
Telephone	(949)660-0761	Fax	(949)660-0	809		

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- 1	2111	1110	

[	]	Applicant / Inventor.
[	]	Assignee of the entire interest. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

[X] Attorney or Agent of record.

[ ] Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration No.\_\_\_\_\_

Type or Printed Name	Jiawei Huang		Registration No.	43,330
Signature	11 W			
Date	October 9, 2001	71 (7		

[X] Total of 1 form is submitted.